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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2039

DEBRA LUDLOW  
P.O. Box 504  
Forest Ranch, CA 95942

**A C C U S A T I O N**

Respiratory Care Practitioner License No. 10111

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about March 10, 1986, the Respiratory Care Board issued Respiratory Care Practitioner License Number 10111 to Debra Ludlow (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2007, unless renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are

1 to the Business and Professions Code unless otherwise indicated.

2 4. Section 3710 of the Code states: "The Respiratory Care Board of  
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3,  
4 the Respiratory Care Practice Act]."

5 5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and  
6 revoke licenses to practice respiratory care as provided in this chapter."

7 6. Section 3750 of the Code states:

8 "The board may order the denial, suspension or revocation of, or the imposition of  
9 probationary conditions upon, a license issued under this chapter, for any of the following  
10 causes:

11 "(d) Conviction of a crime that substantially relates to the qualifications, functions,  
12 or duties of a respiratory care practitioner. The record of conviction or a certified copy  
13 thereof shall be conclusive evidence of the conviction.

14 "(g) Conviction of a violation of any of the provisions of this chapter or of any  
15 provision of Division 2 (commencing with Section 500), or violating, or attempting to  
16 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to  
17 violate any provision or term of this chapter or of any provision of Division 2 (commencing  
18 with Section 500).

19 "(j) The commission of any fraudulent, dishonest, or corrupt act which is  
20 substantially related to the qualifications, functions, or duties of a respiratory care  
21 practitioner.

22 "(k) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible  
23 entries in any patient, hospital, or other record.

24 "(l) Changing the prescription of a physician and surgeon, or falsifying verbal or  
25 written orders for treatment or a diagnostic regime received, whether or not that action  
26 resulted in actual patient harm."

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7. Section 3750.5 of the Code states:

"In addition to any other grounds specified in this chapter, the board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

"(d) Been convicted of a criminal offense involving the consumption or self-administration of any of the substances described in subdivisions (a) and (b), or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a), in which event the record of the conviction is conclusive evidence thereof.

"(f) Falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a)."

8. California Code of Regulations, title 16, section 1399.370, states:

“For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

“(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Act.”

## COST RECOVERY

9. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

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1                   10.     Section 3753.7 of the Code states:

2                   "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include  
3 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing,  
4 and service fees."

5                   11.     Section 3753.1 of the Code states:

6                   "(a) An administrative disciplinary decision imposing terms of probation may include,  
7 among other things, a requirement that the licensee-probationer pay the monetary costs associated with  
8 monitoring the probation. "

9   FIRST CAUSE FOR DISCIPLINE

10                  (Conviction; Dishonest Act; Falsifying a Record, Changing a physician's prescription )

11                  12.     Respondent is subject to disciplinary action under sections 3750(d)  
12 [conviction], 3750(g) [violation of any provision], 3750(j) [dishonest act], 3750(k) [falsifying a  
13 record], 3750(l) [changing a doctor's prescription], 3750.5(d) and 3750.5(f), falsifying a record  
14 pertaining to controlled substances. The circumstances are as follows:

15                  13.     On or about December 15, 2005, respondent obtained a prescription for  
16 Vicodin from the Prompt Care Clinic. She presented it to Costco Pharmacy to fill it, and M.H., the  
17 pharmacy technician, noticed that the number "1" in the refill area was in a different pen color than  
18 the rest of the prescription. M.H. called Prompt Care Clinic to verify the prescription, and was told  
19 that it was a one time fill. The original prescription did not contain the number "1" in the refill  
20 area. The Clinic advised M..H. not to fill the prescription, and requested that he call the Chico  
21 Police Department.

22                  14.     Chico Police Officer L. McKim placed respondent under arrest and she was  
23 taken to the Chico police station. Officer McKim read respondent her Miranda rights, and she  
24 stated that she had obtained the prescription from Prompt Care Clinic about one and a half hours  
25 before she presented it to Costco Pharmacy. She stated that it had never been out of her  
26 possession during the hour and a half. She admitted that she wrote the number "1" in the refill  
27 area, because she was in pain and was scheduled for surgery in about three weeks, and did not  
28 want to "go through the hassle" of getting another prescription filled. Officer McKim issued

1 Citation Number 41427 to respondent for a misdemeanor violation of Business & Professions code  
2 section 4324, altering a prescription. She was ordered to appear on January 6, 2006 at 8:30 a.m. in  
3 Butte County Superior Court.

4 15. On December 29, 2005, a criminal complaint titled *People of the State of*  
5 *California vs. Debra Ann Ludlow*, case no. SCR 53481 was filed in Superior Court, Butte County.  
6 Count 1 charged respondent with a misdemeanor violation of Business & Professions code section  
7 4324, altering a prescription. On May 16, 2006, respondent entered a plea of no contest to count  
8 1. The Court accepted the plea and sentenced respondent to summary probation for thirty six  
9 months. On May 26, 2006, respondent signed the Probation Order. She was ordered to obey all  
10 laws, and to pay restitution of \$120.00.

11 16. Respondent's license is subject to disciplinary action under sections 3750(d)  
12 [conviction], 3750(g) [violation of any provision], 3750(j) [dishonest act], 3750(k) [falsifying a  
13 record], 3750(l) [changing a doctor's prescription], 3750.5(d) and 3750.5(f), falsifying a record  
14 pertaining to controlled substances, in that she altered a prescription and presented it to a  
15 pharmacist.

#### 16 PRAYER

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
18 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

19 1. Revoking or suspending Respiratory Care Practitioner License Number  
20 10111, issued to Debra Ludlow;

21 2. Ordering Debra Ludlow to pay the Respiratory Care Board the costs of the  
22 investigation and enforcement of this case, and if placed on probation, the costs of probation  
23 monitoring;

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3. Taking such other and further action as deemed necessary and proper.

DATED: July 19, 2006

Original signed by Liane Zimmerman for: \_\_\_\_\_  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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